

Crown Land Administration Principles

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PREFACE

This document contains twelve principles which underlie all of the Ministry's strategic and operational policies governing Crown land use.

This document has been extracted from the Crown Land Administration Manual of the Ministry of Lands, Parks and Housing. This Manual establishes both policies and procedures by which Crown land under the jurisdiction of the Ministry is administered in the public interest.



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1. INTRODUCTION

This document contains the twelve principles which guide the land use programs and policies by which the Ministry of Lands, Parks and Housing allocates, administers and protects Crown land in the Province of British Columbia in the public interest.

2. LAND ADMINISTRATION PRINCIPLES

2.1 The Most Suitable Use of Crown Land

Due to ever-increasing demands on the land base it is necessary to ensure the most effective and appropriate use of Crown land. The Ministry refers to this concept as ensuring the "highest and best use" of the land. Highest and best use is generally determined on the basis of what the land is suitable for in a biophysical sense, and what the land would be most appropriately used for in terms of social and economic needs.

The Ministry attempts to ensure the most suitable use of Crown land. This is done through the referral of land applications and proposals to other agencies for comment; through the land planning programs of the Ministry and other government agencies; and through analysis of economic indicators, social requirements and land capability. Often this process involves making choices between competing uses; the ranking of uses on the basis of their appropriateness to a given land area; consideration of conflicts with adjacent uses; retention of future options; and the evaluation of costs and benefits of potential uses. The overriding rationale is

that Crown land is a limited and valuable resource, and that allocation according to its highest and best use or most suitable use will generate the greatest benefits for all British Columbians.

2.2 Compatibility of Uses and the Minimization of Conflicts

Conflicts over land use tend to increase as population increases and demands on the land base escalate. The presence of conflict tends to reduce the benefits of Crown land to all users, and often leads to costly and time-consuming legal actions and boundary adjustments. Although certain compromises will always be necessary, the degree to which conflicts with adjacent uses can be minimized is a function of the terms and conditions under which land is allocated. The Ministry endeavours to allocate uses in such a manner that they are compatible with the biological and physical environment and with adjacent uses.

The Ministry utilizes the concept of "most suitable location" for each type of Crown land use in order to minimize conflicts and incompatibility. Attempts are made to ensure that incompatible uses are separated and that compatible uses are grouped or amalgamated, where possible. The planning projects of the Ministry and other agencies provide the most effective mechanisms for reducing potential conflicts. In areas of long-established use, the Ministry generally relies on referral of applications and proposals to other agencies to provide for a review of potential areas of conflict, and to incorporate the concerns of adjacent users and others.

The Ministry uses the planning and zoning initiatives of local governments to aid in the determination of compatible use. The Ministry also establishes various land reserves to reduce conflicts in some instances by providing only for single use or restricted use of Crown land. As in the case with "highest and best use", compatibility of uses is a primary objective of the Ministry in its land allocation process.

2.3 A Diverse and Viable Provincial Economy

A major goal of government is to reduce the high dependency of the Province on the forest industry. The mandate of the Ministry of Lands, Parks and Housing reflects this principle, promoting the use of Crown land for a variety of uses which will contribute to economic diversification. Commercial ventures, primary and secondary industries and other vital uses, such as tourism, are sustained in large part through the use of Crown land. To maintain the relative health of the economy, and to achieve provincial objectives of self-sufficiency in food, resource and energy production, Crown land uses which benefit the citizens of the province are accommodated to the extent possible to maintain economic stability and diversity.

Support for the provincial economy is ensured by the provision of Crown land for various types of commercial, industrial and recreational uses. This generally occurs where private land is not readily available for such uses.

The Ministry follows this principle through its tenure and pricing provisions, in which it seeks to provide the security necessary for the long range planning and financial commitment critical to most commercial and industrial ventures. Fair rates of return for the use of such lands provide the province with revenues which defray the cost of Crown land administration. Appropriate Crown land may be granted to the B.C. Development Corporation, B.C. Hydro, and B.C. Rail, in order to simplify administration and increase the effective allocation of commercial and industrial land. Consideration of economic benefits to be derived from certain types of use is a major factor in the Ministry's Crown land use decision-making process.

2.4 Efficient and Diligent Use

The escalating diversity of demands being placed on the province's land base necessitates efficient and diligent use of Crown land in the public's interest. Efficient use means the utilization of only as much land as is necessary to ensure the viability of the particular use. Diligent use refers to the level of commitment to utilize the land for its designated purpose. Generally, diligent use will be synonymous with intensive or effective use (i.e. full and proper management and utilization of the land).

The Ministry ensures that efficient use of Crown land is achieved by entering specific provisos to that effect in its tenure documents. Such provisos can specify the term and conditions of tenure, and encourage integration of

uses where possible. Performance and clean-up guarantees and management plans are used to encourage diligent use of Crown lands. Management plans may be administered, under agreement, by other agencies which have specific expertise related to various aspects of resource management on Crown lands.

2.5 Support for Community Development,
Public Works and Institutional Uses

Projects and developments which benefit the general public or local communities are seen as important uses of Crown land. The Ministry is committed to the principle of disposition of Crown land for community projects, parks, public works and institutions. This principle recognizes that Crown land can be an asset in making such projects and services possible, and in enhancing the development of communities.

The Ministry endeavours to support projects that are to be of public benefit, by providing Crown land for such uses at nominal costs. Provision of land is made in close cooperation with local government planning and zoning initiatives. Such lands may be transferred without rental or payment, although provisos ensuring that the land is used for the purposes for which it has been donated are generally attached to such dispositions.

2.6 Maintenance of a High Quality Environment

Protection of environmental quality is a major consideration in all of the Ministry's land allocation decisions. Responsibility for environmental protection rests primarily with the Ministry of Environment.

However, agencies such as the Ministry of Forests and the Ministry of Lands, Parks and Housing, as well as certain Federal agencies, also have major responsibilities for maintaining environmental quality in British Columbia.

The environmental integrity of Crown lands is protected by allocating land in a manner which maximizes compatibility with the physical and biological environment. Of prime importance in this regard is the attempt to ensure that wherever possible land use tenures do not conflict with natural physical processes, and do not significantly disrupt ecological systems. Where compatibility is not possible, the Ministry endeavours to ensure that adverse impacts on the environment are minimized. This is done through special conditions and provisos relating to Crown land tenure, as well as through the Ministry's formal and informal liaison with other government agencies responsible for health and environmental protection.

2.7 The Protection of Unique and Sensitive Biological and Physical Features

Notwithstanding the fact that a major consideration in all land use decisions is the maintenance of environmental quality, certain unique, representative, and sensitive physical and biological features on Crown land warrant special consideration. Such features may include areas of significant natural processes and phenomena, particular ecosystems and sensitive biotic communities, benchmark areas for measuring the effects of change on adjacent lands, and unique and representative areas particularly suited to educational or scientific research.

This principle is reflected in activities to protect, where possible, areas and sites containing significant natural features by reserving such areas from use for other purposes. Such areas may be reserved as environmentally sensitive sites where land dispositions are not allowed. They may also be established as ecological reserves for the preservation of unique or representative features for scientific and educational purposes, as greenbelts, or as reserves permitting only certain designated uses that are compatible with the biophysical characteristics of the subject lands. The Ministry may also allocate certain significant areas to other agencies for regulation and management (e.g. salmonid enhancement, regional parks), under the transfer of authority provisions of the Land Act.

2.8 Planned Allocation and Disposition of Crown Lands

The Ministry is committed to the planned allocation of Crown land. This principle is a reflection of the government's interest in ensuring the highest and best use of Crown land. Planned allocation is becoming increasingly necessary due to escalating demands being placed on the land base. It rationalizes the disposition of Crown land in order to minimize potential negative effects of land allocation decisions on future land uses. It also provides a wider context for considering the relationships among uses, and permits determination of areas which are most suitable for a given use. Planning, therefore, allows for assessment of the land base and the demands being placed upon it, and determination of the uses that are most suitable and appropriate for given locations, prior to dispositions of land being made.

Many agencies have a land or resource planning function. The Ministry endeavours to use and complement the planning programs and projects of other agencies where possible to aid in the determination and allocation of the most suitable land use. More importantly, the Ministry's own Crown land planning program provides a framework for allocating Crown land and making dispositions in an orderly and rational manner. Public involvement is an important part of this process.

Through planning, forethought can be given to the direction and extent of development. Sensitive environmental areas can be identified and protected, and user conflicts can be reduced. Planning is ultimately reflected in the adjudication of applications for Crown land. Such decisions are made in compliance with land use designations contained in recognized land use plans, and in the development and marketing of Crown land subdivisions on the basis of Crown land plans. This allows advance clearances and referrals of applications, timing of marketing to meet demand or preserve future options, and better service in terms of lower administrative costs and fewer delays. Where provision of this framework of large-scale or long-term planning projects is not feasible, the Ministry attempts to ensure that use occurs in the most appropriate manner and locations by basing land use decisions on inspections, site evaluations, and referrals of applications to other agencies. Both of these processes are on-going, and allocation decisions are subject to periodic review and updating.

2.9 The Conservation and Careful Management
of Aquatic Lands and Shorelands

The Province recognizes the value and uniqueness of shoreland and aquatic lands. The special environmental attributes of aquatic land and shoreland are recognized in Ministry programs which generally preclude their sale. Aquatic lands are recognized as being a public resource for the use and benefit of all British Columbians, present and future, with significant potential for a variety of recreational, industrial, commercial and residential uses. They are therefore deserving of special management.

The Ministry upholds this principle by offering tenures which permit the use of such lands for various purposes on a long-term temporary basis - as opposed to permanent disposition through sale. Environmental considerations often assume special significance in allocation decisions respecting aquatic lands, as these land/water interface areas are often sensitive and fragile environments supporting rich natural processes and ecosystems. As well as paying close attention to the tenure type and duration, the Ministry uses its referral and planning processes, and the planning initiatives of other agencies, in the management and administration of aquatic lands.

2.10 Inter-Agency Coordination and Cooperation

Due to the many and varied uses of Crown land and the number of federal, provincial and local agencies involved in aspects of land use and resource management, the Ministry encourages and fosters inter-agency coordination and cooperation in Crown land allocation decisions. Such cooperation and integration of agency interests helps to

ensure that land allocation will occur with the broadest possible information base on options, impacts, potential conflicts, and the requirements and aspirations of other users.

Inter-agency coordination and cooperation is enhanced through the use of a system of referrals, which is a consultative process designed to assist the Ministry in making its land use decisions. Under this system applications for Crown land are critically reviewed by other agencies who also have certain responsibilities with respect to the management of such lands and the resources thereon. The Ministry also involves agencies with particular resource/land use expertise in the actual management of such lands. This is accomplished through various administrative mechanisms such as transfers of administration of Crown land, assignment of management responsibilities, inter-agency planning projects and inter-agency agreements. Such arrangements contribute to effective management of Crown lands, ease and efficiency of administration, and result in allocations which are responsive to the specific requirements of other users and agencies.

2.11 Equity and Fairness in Crown Land Allocation and Use

Crown lands are allocated and managed by the Ministry as a public trust. It is therefore recognized that the overall rights of the public must be ensured with respect to Crown land acquisition and use. An important part of this principle is to ensure equity and fairness in the

allocation process. Equity means that all citizens of the province are to be treated in an equal manner without preference or bias. In recognition of this principle, all citizens have equal rights with respect to the Crown land application and allocation process, within the framework of eligibility requirements for specific types of Crown land use. Fairness means that the benefit of the doubt is to be accorded to an individual when the Ministry makes a land use decision.

The Ministry ensures equity and fairness through advertising the availability of Crown land in the media, the phasing-in of rental increases in certain cases where rapid increases would result in undue hardship, and the use of non-discriminatory eligibility requirements. Public tender, auction and lot draw procedures, and the right to appeal land application decisions and land valuations are also provided in the interest of fair allocation and use of public lands.

2.12 Retention of Future Options for the Use of Crown Land

Crown land is a public trust. As such it must be allocated and managed for the benefit of not only present but future generations. Since the Land Act is the central statute dealing with the administration of Crown land in the Province, the Ministry has a responsibility to maintain future options for the use of Crown land. Because of the nature of its mandate in administering this Act, the Ministry performs a coordinating function with respect to Crown land use. Where uses of long-term provincial benefit require permanent upland sites, the Ministry favours sale of Crown land. Where it is in the

best public interest to retain land in public ownership, this is accomplished by offering temporary forms of tenure. In so doing, the Ministry maintains possibilities for alternative uses in the future. As societal values, preferences, and expectations change, new uses and new priorities may thus be accommodated on Crown lands.

The Ministry applies this principle in accordance with the Land Act by providing a form and duration of tenure responsive to the particular proposed use. Thus where uses are only temporary, short term tenure is generally appropriate; and where uses are of a long-term nature sale of Crown land is favoured. Future options are maintained by attempting to minimize adverse impacts of uses of Crown land and by ensuring that the Crown land base is protected and maintained. Shoreland and aquatic land are held to be particularly important from this point of view and are generally not alienated on a permanent basis. Land Act reserves may be employed to maintain future options.

Finally, future options are maintained by structuring lease and licence documents in such a way as to accommodate management changes, and impose cancellation if the land is not being properly utilized.